

House File 2179 - Introduced

HOUSE FILE 2179
BY MASCHER

A BILL FOR

1 An Act relating to the creation of a medical marijuana Act
2 including the creation of compassion centers, and providing
3 for civil and criminal penalties and fees.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 124.401, subsection 5, Code Supplement
2 2009, is amended by adding the following new unnumbered
3 paragraph:

4 NEW UNNUMBERED PARAGRAPH. A person may knowingly or
5 intentionally possess marijuana if the possession is in
6 accordance with the provisions of chapter 124D.

7 Sec. 2. NEW SECTION. 124D.1 Citation.

8 This chapter shall be known and may be cited as the "*Medical*
9 *Marijuana Act*".

10 Sec. 3. NEW SECTION. 124D.2 Definitions.

11 As used in this chapter, the following definitions shall
12 apply:

13 1. "*Cardholder*" means a qualifying patient, a designated
14 caregiver, or a compassion center staff person who has been
15 issued and possesses a valid registry identification card.

16 2. "*Compassion center staff person*" means a principal
17 officer, board member, employee, volunteer, or agent of a
18 registered compassion center.

19 3. "*Debilitating medical condition*" means any of the
20 following:

21 a. Cancer, glaucoma, positive status for human
22 immunodeficiency virus, acquired immune deficiency syndrome,
23 hepatitis C, amyotrophic lateral sclerosis, Crohn's disease,
24 agitation of Alzheimer's disease, nail patella, or the
25 treatment of any of these conditions.

26 b. A chronic or debilitating disease or medical condition or
27 its treatment that produces any of the following:

28 (1) Cachexia or wasting syndrome.

29 (2) Severe pain.

30 (3) Severe nausea.

31 (4) Seizures, including but not limited to those
32 characteristic of epilepsy.

33 (5) Severe and persistent muscle spasms, including but not
34 limited to those characteristic of multiple sclerosis.

35 c. Any other medical condition or its treatment approved by

1 the department.

2 4. "*Department*" means the department of public health.

3 5. "*Designated caregiver*" means a person twenty-one years
4 of age or older who has agreed to assist with a patient's
5 medical use of marijuana, and who has never been convicted of a
6 felony drug offense. A designated caregiver shall not assist
7 more than five qualifying patients with their medical use of
8 marijuana.

9 6. "*Enclosed, locked facility*" means a closet, room,
10 greenhouse, or other enclosed area equipped with locks or other
11 security devices that permit access only by a cardholder.

12 7. "*Felony drug offense*" means a violation of a state or
13 federal controlled substance law that was classified as a
14 felony in the jurisdiction where the person was convicted.

15 "*Felony drug offense*" does not include any of the following:

16 a. An offense for which the sentence, including any term of
17 probation, incarceration, or supervised release, was completed
18 ten or more years earlier.

19 b. An offense that involved conduct that would have been
20 permitted under this chapter.

21 8. "*Marijuana*" means the same as defined in section 124.101,
22 subsection 19.

23 9. "*Medical use*" means the acquisition, possession,
24 cultivation, manufacture, use, delivery, sale, transfer, or
25 transportation of marijuana or paraphernalia relating to the
26 administration of marijuana to treat or alleviate a registered
27 qualifying patient's debilitating medical condition or symptoms
28 associated with the patient's debilitating medical condition.

29 10. "*Possession*" means the possession, acquisition,
30 manufacture, use, delivery, transfer, transportation, or
31 administration of marijuana by a qualifying patient or
32 designated caregiver possessing a valid registry identification
33 card, for certified medical use; provided that the marijuana
34 that may be possessed by a qualifying patient and such
35 qualifying patient's designated caregiver does not, in total,

1 exceed twelve plants and a total aggregate weight of two and
2 one-half ounces of usable marijuana.

3 11. "*Practitioner*" means a physician, dentist, podiatric
4 physician, or other person licensed or registered to distribute
5 or dispense a prescription drug or device in the course of
6 professional practice in Iowa or a person licensed by another
7 state in a health field in which, under Iowa law, licensees in
8 this state may legally prescribe drugs. "*Practitioner*" does not
9 include a veterinarian.

10 12. "*Qualifying patient*" means a person who has been
11 diagnosed by a practitioner with a debilitating medical
12 condition.

13 13. "*Registered compassion center*" means a not-for-profit
14 organization registered pursuant to section 124D.4 that
15 acquires, possesses, cultivates, manufactures, delivers,
16 transfers, transports, supplies, or dispenses marijuana or
17 related supplies and educational materials to cardholders. A
18 registered compassion center may receive compensation for all
19 expenses incurred in its operation.

20 14. "*Registry identification card*" means a document issued
21 by the department that identifies a person as a registered
22 qualifying patient, registered designated caregiver, or a
23 registered compassion center staff person.

24 15. "*Unusable marijuana*" means marijuana seeds, stalks,
25 seedlings, and unusable roots. "*Seedling*" means a marijuana
26 plant without flowers which is less than twelve inches in
27 height and less than twelve inches in diameter.

28 16. "*Usable marijuana*" means the dried leaves and flowers of
29 the marijuana plant, and any mixture or preparation thereof,
30 but does not include the seeds, stalks, and roots of the plant
31 and does not include the weight of any nonmarijuana ingredients
32 combined with marijuana and prepared for consumption as food or
33 drink.

34 17. "*Verification system*" means a secure,
35 password-protected, internet-based system established by the

1 department pursuant to section 124D.6, that is accessible
2 twenty-four hours per day that law enforcement personnel and
3 compassion center staff persons may use to verify registry
4 identification cards established and maintained by the
5 department pursuant to section 124D.4.

6 18. *“Visiting qualifying patient”* means a qualifying patient
7 who is not a resident of this state or who has been a resident
8 of this state for less than thirty days.

9 19. *“Written certification”* means a document signed by a
10 practitioner, stating that in the practitioner’s professional
11 opinion the patient is likely to receive therapeutic or
12 palliative benefit from the medical use of marijuana to treat
13 or alleviate the patient’s debilitating medical condition or
14 symptoms associated with the debilitating medical condition.
15 A written certification shall be made only in the course
16 of a bona fide practitioner-patient relationship after the
17 practitioner has completed a full assessment of the qualifying
18 patient’s medical history. The written certification
19 shall specify the qualifying patient’s debilitating medical
20 condition.

21 Sec. 4. NEW SECTION. 124D.3 **Medical use of marijuana.**

22 1. A qualifying patient who has been issued and possesses a
23 registry identification card shall not be subject to arrest,
24 prosecution, or penalty in any manner, or denied any right
25 or privilege, including but not limited to a civil penalty
26 or disciplinary action by a business or occupational or
27 professional licensing board or bureau, for the medical use
28 of marijuana in accordance with this chapter, provided the
29 marijuana possessed by the qualifying patient does not exceed
30 the amount described in section 124D.2, subsection 10. The
31 marijuana plants shall be kept in an enclosed, locked facility,
32 unless the plants are being transported because the qualifying
33 patient is moving or if the plants are being transported to the
34 qualifying patient’s property.

35 2. A designated caregiver who has been issued and possesses

1 a registry identification card shall not be subject to
2 arrest, prosecution, or penalty in any manner, or denied any
3 right or privilege, including but not limited to a civil
4 penalty or disciplinary action by a business or occupational
5 or professional licensing board or bureau, for assisting
6 a qualifying patient to whom the designated caregiver is
7 connected through the department's registration process with
8 the medical use of marijuana in accordance with this chapter,
9 provided that the marijuana possessed by the designated
10 caregiver does not exceed the amount described in section
11 124D.2, subsection 10, for each qualifying patient to whom the
12 designated caregiver is connected through the department's
13 registration process. The marijuana plants shall be kept in
14 an enclosed, locked facility, unless the plants are being
15 transported because the designated caregiver or qualifying
16 patient is moving or if the plants are being transported to
17 a designated caregiver's or a qualifying patient's property.
18 Registered designated caregivers and registered qualifying
19 patients are allowed to possess a reasonable amount of unusable
20 marijuana, including up to twelve seedlings, which shall not be
21 counted toward the limits in this section.

22 3. a. There shall be a presumption that a qualifying
23 patient or designated caregiver is engaged in the medical use
24 of marijuana pursuant to this chapter if the qualifying patient
25 or designated caregiver does both of the following:

26 (1) Possesses a registry identification card.

27 (2) Possesses an amount of marijuana that does not exceed
28 the amount allowed pursuant to section 124D.2, subsection 10.

29 b. The presumption may be rebutted by evidence that
30 conduct related to marijuana use or possession was not for the
31 purpose of treating or alleviating the qualifying patient's
32 debilitating medical condition or symptoms associated with
33 the debilitating medical condition, in accordance with this
34 chapter.

35 4. A registered qualifying patient or registered designated

1 caregiver shall not be subject to arrest, prosecution, or
2 penalty in any manner, or denied any right or privilege,
3 including but not limited to civil penalty or disciplinary
4 action by a business or occupational or professional licensing
5 board or bureau, for giving marijuana to a registered
6 qualifying patient or a registered designated caregiver for the
7 registered qualifying patient's medical use where nothing of
8 value is transferred in return, or to offer to do the same,
9 provided that the registered qualifying patient or registered
10 designated caregiver does not knowingly cause the recipient to
11 possess more marijuana than is permitted in section 124D.2,
12 subsection 10.

13 5. A school, employer, or landlord shall not refuse to
14 enroll, employ, or lease to, or otherwise penalize, a person
15 solely on the basis of the person's status as a registered
16 qualifying patient or a registered designated caregiver, unless
17 failing to do so would put the school, employer, or landlord
18 in violation of federal law or cause the school, employer, or
19 landlord to lose a federal contract or funding.

20 6. For the purposes of medical care, including organ
21 transplants, a registered qualifying patient's authorized
22 use of marijuana in accordance with this chapter shall be
23 considered the equivalent of the authorized use of any other
24 medication used at the direction of a physician, and shall not
25 constitute the use of an illicit substance.

26 7. Unless a failure to do so would put an employer in
27 violation of federal law or federal regulations, an employer
28 may not discriminate against a person in hiring, termination,
29 or any term or condition of employment, or otherwise penalize
30 a person, if the discrimination is based upon any of the
31 following:

32 a. The person's status as a registered qualifying patient or
33 registered designated caregiver.

34 b. A registered qualifying patient's positive drug test for
35 marijuana components or metabolites, unless the patient used,

1 possessed, or was impaired by marijuana on the premises of the
2 place of employment or during the hours of employment.

3 8. A person shall not be denied custody or visitation of
4 a minor for acting in accordance with this chapter, unless
5 the person's behavior is such that it creates an unreasonable
6 danger to the safety of the minor as established by clear and
7 convincing evidence.

8 9. A registered designated caregiver may receive
9 compensation for costs associated with assisting a registered
10 qualifying patient's medical use of marijuana, provided
11 that the registered designated caregiver is connected to
12 the registered qualifying patient through the department's
13 registration process. Any such compensation shall not
14 constitute the sale of controlled substances.

15 10. A practitioner shall not be subject to arrest,
16 prosecution, or penalty in any manner, or denied any right or
17 privilege, including but not limited to a civil penalty or
18 disciplinary action by the board of medicine or by any other
19 business or occupational or professional licensing board or
20 bureau, solely for providing written certifications or for
21 otherwise stating that, in the practitioner's professional
22 opinion, a patient is likely to receive therapeutic benefit
23 from the medical use of marijuana to treat or alleviate the
24 patient's debilitating medical condition or symptoms associated
25 with the debilitating medical condition, provided that nothing
26 shall prevent a professional licensing board from sanctioning
27 a practitioner for failing to properly evaluate a patient's
28 medical condition or otherwise violating the standard of care
29 for evaluating medical conditions.

30 11. A person shall not be subject to arrest, prosecution,
31 or penalty in any manner, or denied any right or privilege,
32 including but not limited to a civil penalty or disciplinary
33 action by a business or occupational or professional licensing
34 board or bureau, for providing a registered qualifying
35 patient or a registered designated caregiver with marijuana

1 paraphernalia for purposes of a qualifying patient's medical
2 use of marijuana.

3 12. Any marijuana, marijuana paraphernalia, licit property,
4 or interest in licit property that is possessed, owned, or used
5 in connection with the medical use of marijuana, as allowed
6 under this chapter, or acts incidental to such use, shall not
7 be seized or forfeited.

8 13. A person shall not be subject to arrest, prosecution,
9 or penalty in any manner, or denied any right or privilege,
10 including but not limited to a civil penalty or disciplinary
11 action by a business or occupational or professional licensing
12 board or bureau, simply for being in the presence or vicinity
13 of the medical use of marijuana as allowed under this chapter,
14 or for assisting a registered qualifying patient with using or
15 administering marijuana.

16 14. A registry identification card, or its equivalent, that
17 is issued under the laws of another state, district, territory,
18 commonwealth, or insular possession of the United States that
19 allows the medical use of marijuana by a visiting qualifying
20 patient, shall have the same force and effect as a registry
21 identification card issued by the department for purposes of
22 this chapter.

23 Sec. 5. NEW SECTION. 124D.4 **Compassion centers.**

24 1. The department shall register and issue a registration
25 certificate to the compassion center, with a random
26 twenty-digit alphanumeric identification number, within
27 ninety days of receiving an application for registration of a
28 compassion center if all of the following conditions are met:

29 a. The prospective compassion center provided all of the
30 following, in accordance with the department's rules:

31 (1) An application or renewal fee.

32 (2) The legal name of the compassion center.

33 (3) The physical address of the compassion center and the
34 physical address of one additional location, if any, where
35 marijuana will be cultivated, neither of which may be within

1 five hundred feet of a preexisting public or private school.

2 (4) The name, address, and date of birth of each compassion
3 center staff person.

4 (5) Operating regulations that include procedures for
5 oversight of the compassion center and procedures to ensure
6 accurate recordkeeping and security measures, in accordance
7 with rules adopted by the department pursuant to section
8 124D.5.

9 (6) If the city or county in which the compassion center
10 is to be located has enacted reasonable zoning ordinances, a
11 sworn and truthful statement that the compassion center is in
12 compliance with those ordinances.

13 *b.* The compassion center staff persons have not been
14 convicted of an offense that was classified as a felony in the
15 jurisdiction where the person was convicted, unless the offense
16 consisted of conduct for which this chapter would likely
17 have prevented a conviction, but the conduct either occurred
18 prior to the enactment of this chapter or was prosecuted by an
19 authority other than in this state.

20 *c.* None of the prospective principal officers or board
21 members of the compassion center have served as a principal
22 officer or board member for a compassion center that had its
23 registration certificate revoked.

24 *d.* None of the principal officers or board members of the
25 compassion center are younger than twenty-one years of age.

26 2. Except as provided in subsection 3, the department
27 shall issue each compassion center staff person a registry
28 identification card and log-in information for the verification
29 system within ten days of receipt of the person's name,
30 address, date of birth, and a fee in an amount established
31 by the department. Each registry identification card shall
32 specify that the cardholder is a compassion center staff person
33 of a registered compassion center and shall contain all of the
34 following information:

35 *a.* The name, address, and date of birth of the compassion

1 center staff person.

2 *b.* The legal name of the registered compassion center with
3 which the compassion center staff person is affiliated.

4 *c.* A random twenty-digit alphanumeric identification number
5 that is unique to the cardholder.

6 *d.* The date of issuance and expiration date of the registry
7 identification card.

8 *e.* A photograph, if the department requires inclusion of a
9 photograph by rule.

10 *f.* A statement signed by the prospective compassion center
11 staff person pledging not to divert marijuana to anyone who is
12 not allowed to possess marijuana pursuant to this chapter.

13 3. *a.* The department shall not issue a registry
14 identification card to a compassion center staff person who
15 has been convicted of an offense that was classified as a
16 felony in the jurisdiction where the person was convicted,
17 unless the offense consisted of conduct for which this chapter
18 would likely have prevented a conviction, but the conduct
19 either occurred prior to the enactment of this chapter or was
20 prosecuted by an authority other than in this state. The
21 department may conduct a background check of each compassion
22 center staff person in order to carry out this paragraph. The
23 department shall notify the registered compassion center in
24 writing of the reason for denying the registry identification
25 card.

26 *b.* The department shall not issue a registry identification
27 card to a compassion center staff person who is under the age
28 of twenty-one.

29 *c.* The department may refuse to issue a registry
30 identification card to a compassion center staff person who has
31 had a card revoked for violating this chapter.

32 4. *a.* A registered compassion center's registration
33 certificate and the registry identification card for each
34 compassion center staff person shall expire one year after
35 the date of issuance. The department shall issue a renewal

1 compassion center registration certificate within ten days
2 to any registered compassion center that submits a renewal
3 fee, provided that the compassion center's registration is
4 not suspended and has not been revoked. The department shall
5 issue a renewal registry identification card within ten days to
6 any compassion center staff person who submits a renewal fee,
7 except as otherwise provided.

8 *b.* A registry identification card of a compassion center
9 staff person shall expire and the person's log-in information
10 to the verification system shall be deactivated upon
11 notification by a registered compassion center that such person
12 ceases to work at the registered compassion center.

13 5. Registered compassion centers are subject to reasonable
14 inspection by the department. The department shall give at
15 least twenty-four hours' notice of an inspection.

16 6. *a.* A registered compassion center shall be operated on a
17 not-for-profit basis for the mutual benefit of its members and
18 patrons. The bylaws of a registered compassion center or its
19 contracts with patrons shall contain such provisions relative
20 to the disposition of revenues and receipts as may be necessary
21 and appropriate to establish and maintain its not-for-profit
22 status. However, a registered compassion center need not be
23 recognized as tax-exempt by the Internal Revenue Service and is
24 not required to incorporate pursuant to chapter 504.

25 *b.* A registered compassion center shall notify the
26 department within ten days of when a compassion center staff
27 person ceases to work at the registered compassion center.

28 *c.* A registered compassion center shall notify the
29 department in writing of the name, address, and date of birth
30 of any new compassion center staff person and shall submit
31 a fee in an amount established by the department for a new
32 registry identification card before the new compassion center
33 staff person begins working at the registered compassion
34 center.

35 *d.* A registered compassion center shall implement

1 appropriate security measures to deter and prevent unauthorized
2 entrance into areas containing marijuana and the theft of
3 marijuana including the use of enclosed, locked facilities for
4 the storage of marijuana. The cultivation of marijuana by a
5 registered compassion center shall take place in an enclosed,
6 locked facility, which can only be accessed by compassion
7 center staff persons who are cardholders.

8 *e.* The operating documents of a registered compassion
9 center shall include procedures for the oversight of the
10 registered compassion center and procedures to ensure accurate
11 recordkeeping.

12 *f.* A registered compassion center is prohibited from
13 acquiring, possessing, cultivating, manufacturing, delivering,
14 transferring, transporting, supplying, or dispensing marijuana
15 for any purpose except to assist registered qualifying patients
16 with the medical use of marijuana directly or through the
17 qualifying patients' designated caregivers.

18 *g.* All principal officers and board members of a registered
19 compassion center shall be residents of the state of Iowa.

20 *h.* The governing body of a county or city may enact
21 reasonable limits on the number of registered compassion
22 centers that can operate in their jurisdiction, and may enact
23 zoning ordinances that reasonably limit registered compassion
24 centers to certain areas of their jurisdiction.

25 7. *a.* Before marijuana may be dispensed to a registered
26 designated caregiver or a registered qualifying patient, a
27 compassion center staff person shall verify the registered
28 qualifying patient for whom the marijuana is intended, and the
29 registered designated caregiver transporting the marijuana to
30 the registered qualifying patient, if any, in the verification
31 system and shall verify all of the following:

32 (1) That the registry identification card presented to the
33 registered compassion center is valid.

34 (2) That the person presenting the registry identification
35 card is the person identified on the card.

1 (3) That the amount of marijuana to be dispensed would not
2 cause the registered qualifying patient to exceed a limit of
3 obtaining six ounces of marijuana during any thirty-day period.

4 *b.* Upon verification of the information in paragraph "a",
5 but before dispensing marijuana to a registered qualifying
6 patient or a registered designated caregiver on a registered
7 qualifying patient's behalf, a compassion center staff person
8 shall make an entry in the verification system, specifying how
9 much marijuana is being dispensed to the registered qualifying
10 patient and whether it was dispensed directly to the registered
11 qualifying patient or to the registered qualifying patient's
12 registered designated caregiver. The entry must include the
13 date and time the marijuana was dispensed.

14 8. *a.* A registered compassion center shall not be subject
15 to a search, except inspection by the department pursuant to
16 subsection 5; seizure; or penalty, or be denied any right or
17 privilege, including but not limited to a civil penalty or
18 disciplinary action by a court or business licensing board or
19 entity, solely for acting in accordance with this chapter and
20 department rules to acquire, possess, cultivate, manufacture,
21 deliver, transfer, transport, supply, or dispense marijuana
22 or related supplies and educational materials to registered
23 qualifying patients, to registered designated caregivers
24 on behalf of registered qualifying patients, or to other
25 registered compassion centers.

26 *b.* A compassion center staff person shall not be subject
27 to arrest, prosecution, search, seizure, or penalty in any
28 manner or denied any right or privilege, including but not
29 limited to a civil penalty or disciplinary action by a court or
30 occupational or professional licensing board or entity, solely
31 for working for a registered compassion center in accordance
32 with this chapter and department rules to acquire, possess,
33 cultivate, manufacture, deliver, transfer, transport, supply,
34 or dispense marijuana or related supplies and educational
35 materials to registered qualifying patients, to registered

1 designated caregivers on behalf of registered qualifying
2 patients, or to other registered compassion centers.

3 9. a. A registered qualifying patient shall not directly,
4 or through the registered qualifying patient's registered
5 designated caregiver, obtain more than six ounces of marijuana
6 from a registered compassion center in any thirty-day period.

7 b. A registered compassion center may not dispense, deliver,
8 or otherwise transfer marijuana to a person other than another
9 registered compassion center staff person, a registered
10 qualifying patient, or a registered qualifying patient's
11 registered designated caregiver.

12 c. A registered compassion center shall not obtain marijuana
13 from outside this state.

14 d. Except as otherwise provided, a person who has been
15 convicted of an offense that was classified as a felony in
16 the jurisdiction where the person was convicted shall not be
17 eligible to be a compassion center staff person. A person who
18 works as a compassion center staff person for a registered
19 compassion center in violation of this paragraph is subject
20 to a civil violation punishable by a penalty of up to one
21 thousand dollars. A subsequent violation of this paragraph is
22 an aggravated misdemeanor. In addition, such person's registry
23 identification card shall be immediately revoked.

24 e. A registered compassion center shall not acquire usable
25 marijuana or mature marijuana plants from any person other than
26 another registered compassion center, a registered qualifying
27 patient, or a registered designated caregiver. A registered
28 compassion center is only allowed to acquire usable marijuana
29 or marijuana plants from a registered qualifying patient or a
30 registered designated caregiver if the registered qualifying
31 patient or registered designated caregiver receives no
32 compensation for the marijuana. A registered compassion center
33 in violation of this paragraph shall have its registration
34 immediately revoked.

35 Sec. 6. NEW SECTION. 124D.5 Departmental rules.

1 1. Not later than January 1, 2011, the department shall
2 adopt rules governing the manner in which the department shall
3 consider petitions from the public to approve debilitating
4 medical conditions in addition to those debilitating medical
5 conditions set forth in section 124D.2, subsection 3. In
6 considering such a petition, the department shall include
7 public notice of, and an opportunity to comment in a public
8 hearing upon, such petition. The department shall, after
9 hearing, approve or deny such petition within sixty days of
10 submission of the petition. The approval or denial of such a
11 petition shall be considered a final agency action subject to
12 judicial review pursuant to chapter 17A.

13 2. Not later than November 1, 2010, the department shall
14 adopt rules governing the manner in which the department
15 shall consider applications for and renewals of registry
16 identification cards and compassion center registration
17 certificates. The rules shall establish application and
18 renewal fees. The fees shall meet all of the following
19 requirements:

20 a. The total fees collected must generate revenues
21 sufficient to offset all expenses of implementing and
22 administering this chapter.

23 b. A compassion center application fee shall not exceed five
24 thousand dollars.

25 c. A compassion center renewal fee shall not exceed one
26 thousand dollars.

27 d. The total revenue generated from fees relating to a
28 single compassion center including the compassion center
29 application fee, renewal fee, and registry identification card
30 fees for compassion center staff persons must be sufficient
31 to offset all expenses of implementing and administering the
32 compassion center, including the verification system.

33 e. The department may establish a sliding scale of
34 application and renewal fees based upon a qualifying patient's
35 family income.

1 *f.* The department may accept donations from private sources
2 in order to reduce the application and renewal fees.

3 3. Not later than November 1, 2010, the department shall
4 adopt rules governing the manner in which it shall consider
5 applications for and renewals of registration certificates
6 for registered compassion centers, including reasonable rules
7 governing all of the following:

8 *a.* The form and content of registration and renewal
9 applications.

10 *b.* Minimum oversight requirements for registered compassion
11 centers.

12 *c.* Minimum recordkeeping requirements for registered
13 compassion centers.

14 *d.* Minimum security requirements for registered compassion
15 centers, which shall include that each registered compassion
16 center location must be protected by a fully operational
17 security alarm system.

18 *e.* Procedures for suspending or terminating the registration
19 of registered compassion centers that violate this chapter or
20 the rules adopted pursuant to this section.

21 4. The department shall design rules with the goal of
22 protecting against diversion and theft, without imposing an
23 undue burden on registered compassion centers or compromising
24 the confidentiality of registered qualifying patients and their
25 registered designated caregivers. Any dispensing records that
26 a registered compassion center is required to keep shall track
27 transactions according to the qualifying patient's, designated
28 caregiver's, or compassion center's registry identification
29 card number or registration certificate number, as applicable,
30 rather than their name, to protect their confidentiality.

31 Sec. 7. NEW SECTION. 124D.6 Registry identification cards
32 — application — fee — penalty.

33 1. The department shall issue a registry identification
34 card to a qualifying patient who submits an application
35 containing all of the following:

- 1 *a.* A written certification.
- 2 *b.* An application or renewal fee.
- 3 *c.* The name, address, and date of birth of the qualifying
4 patient except that if the applicant is homeless, no address
5 is required.
- 6 *d.* The name, address, and telephone number of the qualifying
7 patient's practitioner.
- 8 *e.* The name, address, and date of birth of each designated
9 caregiver, if any, of the qualifying patient.
- 10 *f.* A statement signed by the qualifying patient pledging
11 not to divert marijuana to other persons not allowed to possess
12 marijuana under this chapter.
- 13 *g.* A signed statement from the designated caregiver pledging
14 not to divert marijuana to other persons not allowed to possess
15 marijuana under this chapter.
- 16 2. The department shall not issue a registry identification
17 card to a qualifying patient who is under the age of eighteen
18 unless all of the following requirements are met:
 - 19 *a.* The qualifying patient's practitioner has explained the
20 potential risks and benefits of the medical use of marijuana
21 to the qualifying patient and to a parent, guardian, or legal
22 custodian of the qualifying patient.
 - 23 *b.* The parent, guardian, or person having legal custody
24 consents in writing to all of the following:
 - 25 (1) Allowing the qualifying patient's medical use of
26 marijuana.
 - 27 (2) Serving as the qualifying patient's designated
28 caregiver.
 - 29 (3) Controlling the acquisition of the marijuana, the
30 dosage, and the frequency of the medical use of marijuana by
31 the qualifying patient.
- 32 3. The department shall verify the information contained
33 in an application or renewal application submitted pursuant
34 to this section, and shall approve or deny an application
35 or renewal application within fifteen days of receiving the

1 application or renewal application. The department may deny
2 an application or a renewal application only if the applicant
3 fails to provide the information required pursuant to this
4 section, the applicant previously had a registry identification
5 card revoked for violating this chapter, or the department
6 determines that the information provided was falsified.
7 Rejection of an application or a renewal application is
8 considered a final agency action subject to judicial review
9 pursuant to chapter 17A.

10 4. The department shall issue a registry identification
11 card to the designated caregiver, if any, who is named in
12 a qualifying patient's approved application or renewal
13 application, up to a maximum of one designated caregiver per
14 qualifying patient, provided the designated caregiver meets the
15 requirements of section 124D.2, subsection 5.

16 5. The department shall issue a registry identification
17 card to a qualifying patient and to the designated caregiver
18 within five days of approving an application or a renewal
19 application, which shall expire one year after the date
20 of issuance, unless a practitioner states in a written
21 certification that the qualifying patient would benefit from
22 the use of medical marijuana until a specified earlier or later
23 date. In such a case, the registry identification card shall
24 expire on that date. A registry identification card shall
25 contain all of the following:

26 a. The name, address, and date of birth of the qualifying
27 patient.

28 b. The name, address, and date of birth of the designated
29 caregiver, if any, of the qualifying patient.

30 c. The date of issuance and expiration date of the registry
31 identification card.

32 d. A random twenty-digit alphanumeric identification number
33 containing at least four numbers and at least four letters that
34 is unique to the cardholder.

35 e. If the cardholder is a designated caregiver, the random

1 identification number of the registered qualifying patient the
2 designated caregiver is assisting.

3 *f.* A photograph, if the department requires a photograph.

4 6. *a.* A registered qualifying patient shall notify the
5 department of any change in the registered qualifying patient's
6 name, address, or designated caregiver, or if the registered
7 qualifying patient ceases to have a debilitating medical
8 condition, within ten days of such change.

9 *b.* A registered qualifying patient who fails to notify the
10 department of any of the changes in paragraph "a" is subject
11 to a civil penalty of up to one hundred fifty dollars. If
12 the registered qualifying patient's certifying practitioner
13 notifies the department in writing that either the registered
14 qualifying patient no longer suffers from a debilitating
15 medical condition or that the practitioner no longer believes
16 the patient would receive therapeutic or palliative benefit
17 from the medical use of marijuana, the card shall become null
18 and void upon notification by the department to the qualifying
19 patient.

20 *c.* A registered designated caregiver or compassion center
21 staff person shall notify the department of any change in the
22 registered designated caregiver's or compassion center staff
23 person's name or address within ten days of such change. A
24 registered designated caregiver or compassion center staff
25 person who fails to notify the department of such change is
26 subject to a civil penalty of up to one hundred fifty dollars.

27 *d.* When a cardholder notifies the department of any changes
28 listed in this subsection and submits a fee of ten dollars,
29 the department shall issue the cardholder a new registry
30 identification card within ten days of receiving the updated
31 information. If the person notifying the department is a
32 registered qualifying patient, the department shall also issue
33 the patient's registered designated caregiver, if any, a new
34 registry identification card within ten days of receiving the
35 updated information.

1 e. When a registered qualifying patient ceases to be
2 a registered qualifying patient or changes the registered
3 qualifying patient's registered designated caregiver, the
4 department shall notify the designated caregiver within ten
5 days. The registered designated caregiver's protections
6 as provided in this chapter shall expire ten days after
7 notification by the department.

8 f. If a cardholder loses their registry identification card,
9 the cardholder shall notify the department and submit a fee of
10 ten dollars within ten days of losing the card. Within five
11 days after such notification, the department shall issue a new
12 registry identification card with a new random identification
13 number to the cardholder, and if the cardholder is a registered
14 qualifying patient, to the registered qualifying patient's
15 registered designated caregiver, if any.

16 7. Possession of, or application for, a registry
17 identification card shall not constitute probable cause or
18 reasonable suspicion and shall not be used to support the
19 search of the person or property of the person possessing or
20 applying for the registry identification card.

21 8. The following confidentiality rules shall apply to all
22 of the following:

23 a. Applications and supporting information submitted
24 by a qualifying patient or designated caregiver, including
25 information regarding the qualifying patient's designated
26 caregiver and practitioner, are confidential.

27 b. Applications and supporting information submitted by a
28 compassion center or compassion center staff person operating
29 in compliance with this chapter, including the physical address
30 of a compassion center, are confidential.

31 c. The department shall maintain a confidential list
32 of the persons to whom the department has issued registry
33 identification cards. Individual names and other identifying
34 information on the list shall be confidential and not subject
35 to disclosure, except to authorized employees of the department

1 as necessary to perform official duties of the department.

2 *d.* Not later than November 1, 2010, the department shall
3 establish a secure, password-protected, internet-based
4 verification system that is operational twenty-four hours each
5 day, which law enforcement personnel and compassion center
6 staff persons can use to verify registry identification cards.
7 The verification system must allow law enforcement personnel
8 and compassion center staff persons to enter a registry
9 identification number to determine whether or not the number
10 corresponds with a current, valid registry identification
11 card. The system shall disclose the name and photograph of the
12 cardholder, but shall not disclose the cardholder's address.
13 The system shall also display the amount and quantity of
14 marijuana that each registered qualifying patient received from
15 compassion centers during the past sixty days. The system
16 shall allow compassion center staff persons to add the amount
17 of marijuana dispensed to registered qualifying patients,
18 directly or through their designated caregivers, and the date
19 and time the marijuana was dispensed. The verification system
20 shall include all of the following data security features:

21 (1) Any time an authorized user enters five invalid registry
22 identification numbers within five minutes, that user cannot
23 log in to the system again for ten minutes.

24 (2) The server must reject any log-in request that is not
25 over an encrypted connection.

26 *e.* Any records, including computer hard drives,
27 containing cardholder information must be destroyed once
28 they are no longer in use, and the department shall retain
29 a signed statement from a department employee confirming the
30 destruction.

31 *f.* (1) A person, including an employee or official of the
32 department or another state agency or local government, who
33 breaches the confidentiality of information obtained pursuant
34 to this chapter commits a serious misdemeanor punishable by
35 imprisonment of up to one hundred days and a fine of up to one

1 thousand dollars.

2 (2) Notwithstanding this paragraph "f", this section does
3 not prevent the following notifications:

4 (a) Department employees may notify law enforcement
5 about falsified or fraudulent information submitted to the
6 department, if the employee who suspects that falsified or
7 fraudulent information has been submitted confers with the
8 employee's supervisor or at least one other employee of the
9 department and the employee and the employee's supervisor
10 or the employee and the employee's coemployee agree that
11 circumstances exist that warrant reporting.

12 (b) The department may notify state or local law enforcement
13 about apparent criminal violations of this chapter, provided
14 that the employee who suspects the offense confers with the
15 employee's supervisor and both agree that circumstances exist
16 that warrant reporting.

17 (c) A compassion center staff person may notify the
18 department of a suspected violation or attempted violation of
19 this chapter or the rules adopted pursuant to this chapter.

20 9. The department shall submit an annual report to the
21 general assembly by January 15 of each year that does not
22 disclose any identifying information about cardholders,
23 compassion centers, or practitioners, but does contain, at a
24 minimum, all of the following information:

25 a. The number of applications and renewal applications
26 submitted for registry identification cards.

27 b. The number of registered qualifying patients and
28 registered designated caregivers in each county.

29 c. The nature of the debilitating medical conditions of the
30 qualifying patients.

31 d. The number of registry identification cards revoked.

32 e. The number of practitioners providing written
33 certifications for qualifying patients.

34 f. The number of registered compassion centers.

35 g. The number of compassion center staff persons.

1 10. If a state or local law enforcement agency encounters
2 an individual who, during the course of an investigation,
3 credibly asserts that the individual is a registered cardholder
4 or an entity whose personnel credibly assert that it is a
5 compassion center, the law enforcement agency shall not provide
6 any information from any marijuana-related investigation of
7 the person to any law enforcement authority that does not
8 recognize the protection of this chapter. Any prosecution of
9 the individual or entity for a violation of this chapter shall
10 be conducted pursuant to the laws of this state.

11 11. The application for a qualifying patient's registry
12 identification card shall include a question on whether the
13 patient would like the department to notify the patient about
14 any clinical studies regarding marijuana's risks or efficacy
15 that seek human subjects.

16 Sec. 8. NEW SECTION. 124D.7 **Scope of chapter.**

17 1. This chapter does not permit any person to do any of
18 the following nor does it prevent the imposition of any civil,
19 criminal, or other penalties for such actions:

20 a. Undertake any task under the influence of marijuana,
21 when doing so would constitute negligence or professional
22 malpractice.

23 b. Possess marijuana, or otherwise engage in the medical use
24 of marijuana, in any of the following places:

25 (1) In a school bus.

26 (2) On the grounds of any preschool or primary or secondary
27 school.

28 (3) In any correctional facility.

29 c. Smoke marijuana in any of the following:

30 (1) Any form of public transportation.

31 (2) Any public place.

32 d. Operate, navigate, or be in actual physical control
33 of any motor vehicle, aircraft, or motorboat while under the
34 influence of marijuana. However, a registered qualifying
35 patient shall not be considered to be under the influence

1 of marijuana solely because of the presence of metabolites
2 or components of marijuana that appear in insufficient
3 concentration to cause impairment.

4 e. Use marijuana if that person does not have a serious or
5 debilitating medical condition.

6 2. Nothing in this chapter shall be construed to require any
7 of the following:

8 a. A government medical assistance program or private health
9 insurer to reimburse a person for costs associated with the
10 medical use of marijuana.

11 b. A person or establishment in lawful possession of
12 property to allow a guest, client, customer, or other visitor
13 to use marijuana on or in that property. This chapter
14 shall not limit a person or entity in lawful possession of
15 property from removing a person who uses marijuana without
16 permission and from seeking civil and criminal penalties for
17 the unauthorized use of marijuana on their property.

18 c. An employer to accommodate the ingestion of marijuana
19 in any workplace or any employee working while under the
20 influence of marijuana, provided that a qualifying patient
21 shall not be considered to be under the influence of marijuana
22 solely because of the presence of metabolites or components of
23 marijuana that appear in insufficient concentration to cause
24 impairment. This section shall not limit an employer's ability
25 to discipline an employee for ingesting marijuana in the
26 workplace or working while under the influence of marijuana.

27 3. Fraudulent representation to a law enforcement official
28 of any fact or circumstance relating to the medical use
29 of marijuana to avoid arrest or prosecution is a simple
30 misdemeanor, punishable by a fine of five hundred dollars,
31 in addition to any other penalties that may apply for making
32 a false statement or for the use of marijuana other than use
33 undertaken pursuant to this chapter.

34 Sec. 9. NEW SECTION. 124D.8 Affirmative defenses —
35 dismissal.

1 1. Except as provided in section 124D.7, a qualifying
2 patient may assert the medical purpose for using marijuana as a
3 defense to any prosecution of an offense involving marijuana
4 intended for the patient's medical use, and this defense
5 shall be presumed valid where the evidence shows all of the
6 following:

7 a. A practitioner has stated that, in the practitioner's
8 professional opinion, after having completed a full assessment
9 of the patient's medical history and current medical condition
10 made in the course of a bona fide practitioner-patient
11 relationship, the patient is likely to receive therapeutic or
12 palliative benefit from the medical use of marijuana to treat
13 or alleviate the patient's debilitating medical condition or
14 symptoms associated with the patient's debilitating medical
15 condition.

16 b. The patient and the patient's designated caregiver,
17 if any, were collectively in possession of a quantity of
18 marijuana that was not more than was reasonably necessary to
19 ensure the uninterrupted availability of marijuana for the
20 purpose of treating or alleviating the patient's debilitating
21 medical condition or symptoms associated with the patient's
22 debilitating medical condition.

23 c. The patient was engaged in the acquisition, possession,
24 cultivation, manufacture, use, or transportation of marijuana
25 or paraphernalia relating to the administration of marijuana to
26 treat or alleviate the patient's debilitating medical condition
27 or symptoms associated with the patient's debilitating medical
28 condition.

29 2. A person may assert the medical purpose for using
30 marijuana in a motion to dismiss and the charges shall be
31 dismissed following an evidentiary hearing where the person
32 shows all of the elements listed in subsection 1.

33 3. If a patient or a patient's designated caregiver
34 demonstrates the patient's medical purpose for using marijuana
35 pursuant to this section, the patient and the patient's

1 designated caregiver shall not be subject to any of the
2 following for the patient's use of marijuana for medical
3 purposes:

4 *a.* Disciplinary action by a business or occupational or
5 professional licensing board or bureau.

6 *b.* Forfeiture of any interest in or right to nonmarijuana,
7 licit property.

8 Sec. 10. NEW SECTION. 124D.9 **Enforcement.**

9 1. If the department fails to issue a valid registry
10 identification card in response to a valid application or
11 renewal application submitted pursuant to this chapter within
12 twenty days of its submission, the registry identification
13 card shall be deemed granted and a copy of the registry
14 identification application or renewal application shall be
15 deemed a valid registry identification card.

16 2. If at any time after January 1, 2011, including if it has
17 not promulgated rules allowing qualifying patients to submit
18 applications, a notarized statement by a qualifying patient
19 containing the information required in an application, pursuant
20 to section 124D.6, together with a written certification, shall
21 be deemed a valid registry identification card.

22 Sec. 11. NEW SECTION. 124D.10 **Severability clause.**

23 If any provision of this chapter or its application to any
24 person or circumstance is held invalid, the invalidity does
25 not affect other provisions or application of this chapter
26 which can be given effect without the invalid provision or
27 application, and to this end the provisions of this chapter are
28 severable.

29 Sec. 12. Section 453B.6, Code 2009, is amended by adding the
30 following new unnumbered paragraph:

31 NEW UNNUMBERED PARAGRAPH. A person who is in possession
32 of marijuana for medical purposes in accordance with chapter
33 124D is in lawful possession of a taxable substance and is not
34 subject to the requirements of this chapter.

EXPLANATION

1

2 This bill establishes Code chapter 124D, the medical
3 marijuana Act, relating to the possession and use of marijuana
4 for therapeutic purposes, provides for the creation of
5 compassion centers, and provides for civil and criminal
6 penalties and fees.

7 The bill provides that a qualifying patient who has been
8 issued and possesses a registry identification card shall
9 not be subject to arrest, prosecution, or civil penalty, or
10 denied any right or privilege, for the qualifying patient's
11 medical use of marijuana pursuant to the provisions of the
12 bill, provided the qualifying patient possesses an amount of
13 marijuana that does not exceed 12 marijuana plants and 2.5
14 ounces of usable marijuana. Such marijuana plants shall be
15 kept in an enclosed, locked facility unless the plants are
16 being transported because the qualifying patient is moving or
17 if the plants are being transported to the qualifying patient's
18 property. The same qualifications apply to a designated
19 caregiver assisting a qualifying patient.

20 The bill defines a qualifying patient as a person who has
21 been diagnosed by a practitioner with a debilitating medical
22 condition defined as cancer, glaucoma, positive status for
23 human immunodeficiency virus, acquired immune deficiency
24 syndrome, hepatitis C, amyotrophic lateral sclerosis, Crohn's
25 disease, agitation of Alzheimer's disease, nail patella, or
26 a chronic or debilitating medical condition that produces
27 one or more of the following: cachexia or wasting syndrome,
28 severe pain, severe nausea, certain seizures, or certain muscle
29 spasms. A designated caregiver is defined as a person, 21
30 or older, who has agreed to assist with a patient's medical
31 use of marijuana who has never been convicted of a felony
32 drug offense. A designated caregiver shall not assist more
33 than five qualifying patients. A practitioner is defined as
34 a physician, dentist, podiatric physician, or other person
35 licensed or registered to distribute or dispense a prescription

1 drug or device in the course of professional practice in
2 Iowa or a person licensed by another state in a health
3 field in which, under Iowa law, licensees in this state may
4 legally prescribe drugs. A practitioner does not include a
5 veterinarian under the bill.

6 The bill provides for the creation of compassion centers.
7 The bill defines a registered compassion center as a
8 not-for-profit organization registered by the department that
9 acquires, possesses, cultivates, manufactures, delivers,
10 transfers, transports, supplies, or dispenses marijuana or
11 related supplies and educational materials to qualifying
12 patients, designated caregivers, and compassion center staff
13 persons who possess a valid registry identification card.
14 "Compassion center staff person" is defined as a principal
15 officer, board member, employee, volunteer, or agent of a
16 compassion center. The bill provides specific guidelines
17 for regulation of compassion centers and compassion center
18 staff persons by the department including rules specific to
19 the creation of a verification system to verify registry
20 identification cards. A person who was convicted of a felony
21 offense shall not work in a compassion center, unless otherwise
22 permitted by the department. A first violation of this
23 provision is punishable by a civil penalty of up to \$1,000. A
24 subsequent violation is an aggravated misdemeanor.

25 The bill provides that the department of public health
26 (department) shall adopt rules for implementing the bill
27 including rules relating to the consideration of petitions from
28 the public to add additional debilitating medical conditions to
29 the list of debilitating medical conditions specified in the
30 bill, rules relating to applications and renewal applications
31 for registry identification cards issued to qualifying patients
32 and designated caregivers, and rules relating to registered
33 compassion center registration certificates. The department
34 shall establish fees which shall meet certain requirements.

35 The bill provides that the department shall issue a

1 registry identification card to a qualifying patient who
2 submits certain specified information to the department. The
3 department shall not issue a registry identification card to
4 a qualifying patient who is under the age of 18 unless the
5 qualifying patient's practitioner has explained the potential
6 risks and benefits of the medical use of marijuana to the
7 qualifying patient and to the qualifying patient's parent,
8 guardian, or legal representative and such persons provide
9 the appropriate consent. The department shall also issue a
10 registry identification card to each designated caregiver
11 named in a qualifying patient's approved application for a
12 registry identification card, up to a maximum of one designated
13 caregiver per qualifying patient. The bill requires the
14 department to submit an annual report to the general assembly
15 by January 15 of each year concerning information related to
16 registry identification cards.

17 The bill provides that a registered qualifying patient or a
18 registered designated caregiver who loses their registration
19 identification card or who makes changes to certain information
20 relevant to their registration identification card shall
21 submit a fee of \$10 for each replacement card. A registered
22 qualifying patient or a registered designated caregiver who
23 fails to notify the department of any changes in information
24 relevant to the registration identification card is subject to
25 a civil penalty of up to \$150.

26 The bill provides that applications and supporting
27 information submitted by a qualifying patient, designated
28 caregiver, practitioner, compassion center, or compassion
29 center staff persons, are confidential. The bill also provides
30 that a person, including an employee or official of the
31 department, who disseminates information received in connection
32 with an application for a registry identification card pursuant
33 to the bill, is guilty of a serious misdemeanor and is subject
34 to confinement in jail for up to 100 days and a fine of \$1,000.

35 The bill provides that the bill does not permit a registered

1 qualifying patient to undertake any task under the influence
2 of marijuana when doing so would constitute negligence or
3 professional malpractice. The bill prohibits the possession
4 and use of medical marijuana in certain places and during
5 certain activities. The bill provides that any fraudulent
6 representation to a law enforcement official relating to the
7 use of medical marijuana is a simple misdemeanor, punishable
8 by a fine of up to \$500.

9 The bill provides that a patient or a patient's designated
10 caregiver, who is not a cardholder, may assert the medical
11 purpose for using marijuana as a defense to any prosecution
12 involving marijuana where the evidence shows that a
13 practitioner has stated that the patient who is a patient of
14 the practitioner is likely to receive therapeutic or palliative
15 benefit from the medical use of marijuana to treat or alleviate
16 the patient's debilitating medical condition, the patient and
17 the patient's designated caregiver, if any, were collectively
18 in possession of a quantity of marijuana that was not more
19 than was reasonably necessary to ensure the uninterrupted
20 availability of marijuana for the purpose of treating or
21 alleviating the patient's debilitating medical condition, and
22 the patient and the patient's caregiver, if any, were engaged
23 in the acquisition, possession, cultivation, manufacture,
24 use, delivery, transfer, or transportation of marijuana or
25 paraphernalia relating to the administration of marijuana
26 to treat or alleviate the patient's debilitating medical
27 condition.

28 The bill amends Code section 124.401, relating to prohibited
29 acts involving controlled substances, to provide that it is
30 lawful for a person to knowingly or intentionally possess
31 marijuana if the possession is in accordance with the
32 provisions of the bill. The bill also amends Code section
33 453B.6, relating to tax stamps for controlled substances, to
34 specify that possession in accordance with the provisions of
35 the bill is lawful possession and a tax stamp is not required.